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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,089	07/18/2003	Shin-yi Hsu	H-350CD	9110

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EXAMINER

CHAWAN, SHEELA C

ART UNIT	PAPER NUMBER
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2625

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/623,089

Applicant(s)

HSU, SHIN-YI

Examiner

Sheela C. Chawan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 53-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 53-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on Jan 18, 2005 has been entered and made of record.

Claims 1-52, previously filed are canceled now.

Claims 53- 64 are added new.

Claims 53- 64 are pending in the application.

Response to Arguments

2. Applicant's arguments filed on Jan 18, 2005 have been fully considered but are deemed to be moot in view of the new grounds.

Drawings

3. In response to Applicant's arguments filed on Jan 18, 2005, are persuasive and objection to the drawing are withdrawn.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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Claims 53 – 64 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No (US.6,724,931 B1) by Hsu.

Claims 53 – 64 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1- 13 of U.S. Patent No. 6,724,931 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because. The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming the common subject matters as follow. The only difference is formulating a description of an object to be identified in an image using said programming language would be at least an obvious if not inherent. Furthermore, claims in the instant application are broader than the claims in the Patent; otherwise we might not have a double patenting rejection.

Claim 53 of Hsu discloses a method of training a photo analyst in the field of photo interpretation to identify an object in an image, the steps comprising: (U.S. Patent No. (6,724,931B1), Preamble teaches (see claim 1, column 24, lines 64- 67):

a) providing a programming language comprising a syntax including a lexicon of a photo interpreter and adapted for describing an object to be identified in an

Image (U.S. Patent No. (6,724,931B1), teaches (see claim 1, column 23-67, I column 24, lines 1-5);

b) providing programming language (column 24, lines 23- 26);

c) formulating a description of an object to be identified in an image using said programming language (U.S. Patent No. (6,724,931B1), teaches see column 24, lines 1- 5, note programming language comprises a set of predetermined vocabulary and syntax , which corresponds to formulating a description using vocabulary and syntax);

d) submitting said formulated description to said computer system (column 24, lines 7- 8, note, creating image files based on queries of said user that aid in the identifying an object based on formulated description, (U.S. Patent No. (6,724,931B1), teaches see column 24, lines 7- 9 submitting formulated description by the computer in order to identifying the object); and

e) providing graphical feedback from said computer system indicating the actual object identified in said image by said formulated description (U.S. Patent No. (6,724,931B1), teaches see column 24, lines 11- 14).

Claim 54 Hsu discloses the method of training a photo analyst in the field of photo interpretation (U.S. Patent No. (6,724,931B1), Preamble teaches (see claim 11, column 24, lines 48- 50), the steps further comprising:

f) using said graphical feedback and said programming language to re-formulate a description (note, directing the computer system to generate descriptive words, phrases, vocabulary, syntax, extraction rules, and image files and text files for defining object,) of said object to be identified in an image (U.S. Patent No. (6,724,931B1), teaches (see claim 11, column 24, lines 52- 54); and

g) submitting said re-formulated description to said computer system (U.S. Patent No. (6,724,931B1), teaches (see claim 11, column 24, lines 52- 54).

Regarding claim 55, argument analogous those presented for claim 54 are applicable to claim 55. Regarding submitting step and performed iteratively (note, when there is programming language which is performed by the computer having a program in which a set of instruction in some computer language intended to be executed on a computer so as to perform some task, which is done in iteratively manner.

As to claim 56 Hsu discloses the method of training a photo analyst in the field of photo interpretation as recited, wherein each iteration of said using step (f) and said submitting step (g) results in said graphical feedback more closely resembling said object (note, the user can match or compare the current object with the stored prototypical objects) to be identified in an image system (U.S. Patent No. (6,724,931B1), teaches (see claim 13, column 24, lines 60- 64).

As to claim 57 Hsu discloses the method of training a photo analyst in the field of photo interpretation (U.S. Patent No. (6,724,931B1), Preamble teaches (see claim 11, column 24, lines 48- 50) the steps further comprising:

f) graphically be identified to said indicating a region of an image to computer system (note, region corresponds to identifying an object in an image by markings an object on a display, (U.S. Patent No. (6,724,931B1), teaches (see claim 11, column 24, line 51) the steps further comprising:

g) using said computer system to formulate a description of said region of an image in terms of said syntax of said programming language (note, directing the computer system to generate descriptive words, phrases, vocabulary, syntax, extraction

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rules, and image files and text files for defining object) (U.S. Patent No. (6,724,931B1), teaches (see claim 11, column 24, lines 52- 54); and

As to claim 58 discloses the method of training a photo analyst the field of photo interpretation as recited, wherein said computer system comprises a database of extraction rules, said database being updateable with a new extraction rule derived from a description of an object formulated in said programming language) (U.S. Patent No. (6,724,931B1), teaches (see claim 12, column 24, lines 55- 59)

As to claim 59 see the rejection of claim 53 above.

As to claim 60 see the rejection of claim 54 above.

As to claim 61 see the rejection of claim 55 above.

As to claim 62 see the rejection of claim 56 above.

As to claim 63 see the rejection of claim 57 above.

As to claim 64 see the rejection of claim 58 above.

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela C Chawan whose telephone number is. 571-272-7446. The examiner can normally be reached on Monday - Friday 7.30 - 4.00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 571-272-7453. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sheela Chawan
Patent Examiner
Group Art Unit 2625
June 7, 2005